IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

WEDNESDAY, THE 31ST JANUARY 2007 / 11TH MAGHA 1928

WP(C).No. 25189 of 2006(W)

PETITIONER:

SOMARAJAN, AGED 54, S/O.LATE P.R.PURUSHOTHAMAN, PARAYIRICKUNNATHIL VEEDU, MEZHUVELI P.O., PATHANAMTHITTA, PRINCIPAL, GOVERNMENT GIRLS HSS, ADOOR.

BY ADV. SRI.V.PHILIP MATHEW

RESPONDENTS:
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1. **DIRECTOR OF HIGHER SECONDARY EDUCATION, HOUSING BOARD BUILDINGS, THIRUVANANTHAPURAM.**

2. **P.K.SUDHAKARAN, PRINCIPAL, GOVERNMENT HSS, KISUMAN, PATHANAMTHITTA.**

3. **STATE OF KERALA, REP. BY SECRETARY DEPARTMENT OF EDUCATION, KERALA GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**

4. **T.G.KURIAN, HSST, GOVERNMENT BOYS HSS, ADOOR.**

BY ADV. SRI.D.KISHORE
GOVERNMENT PLEADER SMT.M.R.SREELATHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1	**TRUE COPY OF THE RELEVANT PAGES OF THE PETITIONER'S SERVICE BOOK**
EXT.P2	**TRUE COPY OF THE ORDER DATED 7-7-05 POSTING THE PETITIONER IN THE PRESENT SCHOOL**
EXT.P3	**TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER TO THE FIRST RESPONDENT.**
EXT.P4	**TRUE COPY OF ORDER NO.AD-B1, S-18/03/HSE(2) DTD. 23-09-06 FROM THE FIRST RESPONDENT TO THE PETITIONER.**
EXT.P5	**TRUE COPY OF THE ENVELOPE FROM THE FIRST RESPONDENT TO THE PETITIONER.**
EXT.P6	**TRUE COPY OF REPRESENTATION DTD. 25-09-06 FROM THE PETITIONER TO THE FIRST RESPONDENT.**
EXT.P7	**TRUE COPY OF THE REPORT DTD. 5-09-06 SUBMITTED BY THOMAS GEORGE WHO WAS IN CHARGE OF THE SCHOOL ON 24-09-06**

RESPONDENT'S EXHIBITS

EXT.R2(A)	**TRUE COPY OF THE RELEVANT EXTRACT OF ORDER DTD. 13-02-06 OF THE FIRST RESPONDENT.**
EXT.R2(B)	**TRUE COPY OF THE ORDER DATED 23-09-06 OF THE FIRST RESPONDENT.**
EXT.R2(C)	**TRUE COPY OF THE APPLICATION DTD. 16-09-06**

/True Copy/

PA to Judge.

K.M.JOSEPH, J.

W.P.(C).No.25189 OF 2006

Dated this the 31st day of January, 2007

JUDGMENT

Case of the petitioner in brief is as follows:

Petitioner is working as the Principal of Government Girls HSS, Adoor from 7-7-2005 and he is due to retire on 31-03-2008. Petitioner challenges Ext.P4 order of transfer. According to him, the order is a product of malafides. It is stated that he has worked in Government H.S.S. , Budhanoor and Govt. H.S.S. Angadickal south and he was promoted as Principal on 18-07-2005. It is his case that the petitioner refused to take membership in KGOA of which 4th respondent is also a leader. The leaders became angry and tried to attack him. Petitioner and other teachers of the school complained to the C.I. of Police, Adoor and to the first respondent. It is stated that second respondent is junior to the petitioner and he has more than 5 more years in service. Petitioner is being transferred to accommodate the second respondent, it is stated. Govt. H.S.S., Kisuman is more than 75 kilometres away

from petitioner's place of residence and more than 90 km. away from the present school. Govt. H.S.S., Kisuman is situated in thick forest. There are no buses to reach the school. One has to walk nearly 15 km through the forest to reach the school. Petitioner is suffering from high B.P. and diabetes and he requires medical attention regularly. It is stated that when he went to the office of the first respondent on 23-09-2006, he was informed that he has been transferred. He was not given a copy of the order.

2. Learned counsel for the petitioner submits that the order was issued on 23-09-2006 and 24-09-2006 was a Sunday and second respondent has joined duty on 25-09-2006. The manner in which it is implemented also establishes the case of malafides and there is undue haste, he submits.

3. Counter affidavit has been filed by the first and second respondent. Second respondent has also filed affidavit on 30-01-2007. Therein it is stated that he has submitted Ext.R2(c) application on 16-09-2006 and his mother is undergoing treatment for curing Uterus Cancer at Regional Cancer Centre, Thiruvananthapuram. It is also

stated that he has a brother who is working in S.N.College, Kollam and his wife is also working in the same college and there is nobody to look after his mother and she is now residing with the petitioner. Learned counsel for the second respondent points out that though second respondent has joined on 25-09-2006 at Adoor, in the light of the order passed by this court, he joined back.

4. In the circumstances of this case, I feel that petitioner should be permitted to approach the Government with representation against Ext.P4 order and the interim order passed by this court should continue till a decision is taken thereon. But I also feel that the contentions of the petitioner regarding malafides are to be left open.

5. Therefore, the writ petition is disposed of directing that if the petitioner files a representation against Ext.P4 before the third respondent within a period of three weeks from today, a decision will be taken on the same by the third respondent in accordance with law within a period of one month from the date of receipt of a copy of the representation after hearing the petitioner and the second respondent. Till such time a decision is taken, interim order passed by this court

shall continue. I leave open the contentions of the petitioner including malafides. It is open to the petitioner and the second respondent to point out the vacancies whereby the Government can take a decision to accommodate the petitioner and the second respondent in an equitable manner. The decision taken by the third respondent shall not be implemented for a period of three days from the date of the order.

Writ petition is disposed of as above.

K.M.JOSEPH
JUDGE

sv.